

COMMISSION DIRECTIVE

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| ADMINISTRATIVE MATTERS | <input type="checkbox"/> | DATE | <u>September 12, 2007</u> |
| MOTOR CARRIER MATTERS | <input type="checkbox"/> | DOCKET NO. | <u>2007-205-E</u> |
| UTILITIES MATTERS | <input checked="" type="checkbox"/> | | <u></u> |

SUBJECT:

DOCKET NO. 2007-205-E - Mack A. Smith, Complainant/Petitioner v. Progress Energy Carolinas, Incorporated, Defendant/Respondent – Discuss with the Commission the Complainant's Request for the Issuance of a Subpoena and Motion to Allow Complainant's Witness Exhibits to be Introduced as the Complainant's Exhibits. Also, Discuss with the Commission Progress Energy Carolinas, Incorporated's Request to Dismiss the Complainant's Complaint or in the Alternative, Revise the Prefiling Deadlines of Testimony and Postpone the Hearing.

COMMISSION ACTION:

Move that we deny Progress Energy's request for dismissal of this action, but grant its alternative request to set new pre-file and hearing deadlines, with the understanding that we are doing so to provide Mr. Smith further opportunity to meet our pre-filed testimony requirements. However, in providing this second opportunity to Mr. Smith, we state clearly our expectation and requirement that if he has any witnesses that he intends to call at the hearing, other than hostile witnesses appearing pursuant to subpoena, he must pre-file their testimony within the new deadlines that will be set in the case. We further note that our pre-filing requirement applies to any testimony that Mr. Smith himself would intend to give in this matter. I would further move that the Commission state its intention to strictly adhere to future scheduling deadlines in this case so that it may be expeditiously resolved.

Lastly, move that we reject Mr. Charles Terreni's suggestion that this Commission appoint a different Hearing Officer in this matter. Having reviewed the record, we see no evidence to substantiate Mr. Smith's allegations of bias. We have the utmost confidence in Mr. Terreni's fairness and lack of bias in his dealings with all litigants, and instruct him to continue in his appointment as Hearing Officer in this case.

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| PRESIDING | <u>Hamilton</u> | | | | Session: | Regular |
| | MOTION | YES | NO | OTHER | Time of Session | <u>2:30 PM</u> |
| CLYBURN | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | | APPROVED | <u></u> |
| FLEMING | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | | APPROVED STC 30 DAYS | <u></u> |
| HAMILTON | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | | ACCEPTED FOR FILING | <u></u> |
| HOWARD | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | | DENIED | <u></u> |
| MITCHELL | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | | AMENDED | <u></u> |
| MOSELEY | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | | TRANSFERRED | <u></u> |
| WRIGHT | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | | SUSPENDED | <u></u> |
| | | | | | CANCELED | <u></u> |
| | | | | | SET FOR HEARING | <u></u> |
| | | | | | ADVISED | <u></u> |
| | | | | | CARRIED OVER | <u></u> |
| | | | | | RECORDED BY | <u>SCHMIEDING</u> |